

**ALASKA STATE LEGISLATURE  
HOUSE RESOURCES STANDING COMMITTEE**

March 17, 2021

1:01 p.m.

**MEMBERS PRESENT**

Representative Josiah Patkotak, Chair  
Representative Grier Hopkins, Vice Chair  
Representative Zack Fields  
Representative Calvin Schrage  
Representative Sara Hannan  
Representative George Rauscher  
Representative Mike Cronk  
Representative Ronald Gillham  
Representative Tom McKay

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

CONFIRMATION HEARING(S) :

Board of Game

Stanley Hoffman - Bethel  
Jacob Fletcher - Talkeetna  
Lynn Keogh Jr. - Wasilla  
Jerry Burnett - Juneau

- CONFIRMATION(S) ADVANCED

HOUSE BILL NO. 81

"An Act authorizing the commissioner of natural resources to modify a net profit share lease."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 81

SHORT TITLE: OIL/GAS LEASE:DNR MODIFY NET PROFIT SHARE

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

02/18/21 (H) READ THE FIRST TIME - REFERRALS

02/18/21	(H)	RES, FIN
03/05/21	(H)	RES AT 1:00 PM BARNES 124
03/05/21	(H)	Heard & Held
03/05/21	(H)	MINUTE (RES)
03/10/21	(H)	RES AT 1:00 PM BARNES 124
03/10/21	(H)	Heard & Held
03/10/21	(H)	MINUTE (RES)
03/17/21	(H)	RES AT 1:00 PM BARNES 124

## WITNESS REGISTER

STANLEY HOFFMAN, Appointee  
Board of Game  
Bethel, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Game.

JACOB FLETCHER, Appointee  
Board of Game  
Talkeetna, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Game.

LYNN KEOGH JR., Appointee  
Board of Game  
Wasilla, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Game.

JERRY BURNETT, Appointee  
Board of Game  
Juneau, Alaska

**POSITION STATEMENT:** Spoke as an appointee to the Board of Game.

MARK RICHARDS, Executive Director  
Resident Hunters of Alaska  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in opposition to Mr. Fletcher and Mr. Keogh, appointees to the Board of Game.

SAM ROHRER, President  
Alaska Professional Hunters Association  
Kodiak, Alaska

**POSITION STATEMENT:** Testified in favor of all appointees to the Board of Game.

NICOLE SCHMITT  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in favor of Mr. Hoffman and in opposition to Mr. Keogh, appointees to the Board of Game.

KATHRYN LESSARD

Chugiak, Alaska

**POSITION STATEMENT:** Testified in favor of Mr. Keogh, appointee to the Board of Game.

CALEB MARTIN, Executive Director

Alaska Outdoor Council

Anchorage, Alaska

**POSITION STATEMENT:** Testified in favor of all appointees to the Board of Game.

EMILY NAUMAN, Deputy Director

Legislative Legal Services

Legislative Affairs Agency

Juneau, Alaska

**POSITION STATEMENT:** Provided information and answered questions during the hearing on HB 81.

JHONNY MEZA, Commercial Section Manager

Division of Oil and Gas

Department of Natural Resources

Anchorage, Alaska

**POSITION STATEMENT:** Provided information and answered questions during the hearing on HB 81.

RYAN FITZPATRICK, Commercial Analyst

Division of Oil and Gas

Department of Natural Resources

Anchorage, Alaska

**POSITION STATEMENT:** Provided information and answered questions during the hearing on HB 81.

#### **ACTION NARRATIVE**

[1:01:59 PM](#)

**CHAIR JOSIAH PATKOTAK** called the House Resources Standing Committee meeting to order at 1:01 p.m. Representatives McKay, Cronk, Hopkins, Rauscher, Hannan, Gillham, Schrage, and Patkotak were present at the call to order. Representative Fields arrived as the meeting was in progress.

#### **CONFIRMATION HEARING(S):**

##### **BOARD OF GAME**

[1:03:02 PM](#)

CHAIR PATKOTAK announced that the first order of business would be a Confirmation Hearing on Governor's Appointees to the Board of Game.

[Biographical information on all appointees available in the committee packet.]

[1:03:16 PM](#)

STANLEY HOFFMAN, Appointee, Board of Game, Introduced himself as a lifelong Alaskan, in the Kuskokwim River area. He said that his family relies on subsistence hunting and fishing, and that in the past he has been a registered guide as well as a commercial fisherman. He noted that he has served on the board since 2008.

[1:04:30 PM](#)

REPRESENTATIVE RAUSCHER cited the Constitution of the State of Alaska, Article 8, Section 3, which read as follows:

SECTION 3. Common Use. Wherever occurring in their natural state, fish, wildlife, and waters are reserved to the people for common use.

REPRESENTATIVE RAUSCHER then cited Article 8, Section 4, which read as follows:

SECTION 4. Sustained Yield. Fish, forests, wildlife, grasslands, and all other replenishable resources belonging to the State shall be utilized, developed, and maintained on the sustained yield principle, subject to preferences among beneficial uses.

REPRESENTATIVE RAUSCHER asked Mr. Hoffman what these constitutional clauses mean to him.

[1:06:47 PM](#)

MR. HOFFMAN replied that he strongly believes in the common use of wildlife, and that his job is to help manage resources to allow everyone to get the maximum benefit from them.

REPRESENTATIVE RAUSCHER asked how Mr. Hoffman views allowing a species to be harvested in a general hunt versus a permit-draw hunt.

MR. HOFFMAN noted that general hunts are open to Alaska residents, and said that he believes those are the most beneficial to Alaskans. He said that while many Alaskan participate in permit draw hunts, those types of hunts are available to people from outside the state, and that if nonresidents don't show up to hunt it changes the way game is managed.

REPRESENTATIVE RAUSCHER noted the food supply disruptions of the past year and asked about Mr. Hoffman's view regarding the importance of harvesting wild food supply, and whether he would do anything differently as a board member.

MR. HOFFMAN responded that the food supply disruptions of the past year have changed his perspective on availability and harvest. He said he believes that with the extra opportunity for harvest, the board did well despite there not being a set plan.

[1:10:46 PM](#)

REPRESENTATIVE CRONK asked Mr. Hoffman how important advisory committees are to the Board of Game.

MR. HOFFMAN replied that the advisory committees are vital to the system, and that the Board of Game relies on what the committees have to say.

REPRESENTATIVE CRONK concurred and thanked Mr. Hoffman.

[1:12:10 PM](#)

CHAIR PATKOTAK introduced the next witness and reminded him to comment on Representative Rauscher's standard questions on the constitutional clauses regarding the use of resources, the lottery draw hunt and general permit hunt, and how the COVID-19 pandemic correlates with food insecurity.

[1:12:55 PM](#)

JACOB FLETCHER, Appointee, Board of Game, said that he and his wife own a small business guiding for big game, primarily on Kodiak Island, and in the summer months he operates jet boats. He said that he has worked as a packer, assistant guide and registered guide for over 20 years and is very familiar with regulations and how they're implemented in the field. He stated

that he would work hard to be a conscientious and effective member of the board. In describing his thoughts on sustainable yield, Mr. Fletcher said, "All of the game in this state belongs to all of the residents of the state," and where that really comes into play is in the advisory committees; the views of the local advisory committees, he said, are imperative. He noted that a general season hunt is in an area with good game populations and has restrictions on the hunt; draw hunts, however, are in areas where there is more intensive management and the amount of game taken out of that area is more strictly controlled. On the topic of the disruption of the food supply over the past year, he remarked that it's important that Alaskans be able to feed themselves.

[1:17:29 PM](#)

REPRESENTATIVE HANNAN asked Mr. Fletcher to clarify his dates of service on the Board of Game.

MR. FLETCHER said he was appointed in the regular cycle, but his confirmation was disrupted due to the COVID-19 pandemic.

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REPRESENTATIVE HOPKINS noted the importance of balance on the board and said that if all the confirmations go through, four of the seven members of the board would come from a guiding background. He asked Mr. Fletcher if he believes that having a Board of Game with the majority of seats held by members with a guiding background would represent the interests of all Alaskans.

MR. FLETCHER responded that, first and foremost, he's a resident hunter who takes his family hunting; as such, he's familiar with the importance of putting food on the table. He said that he recognizes the concern that there may be too many guides on the board but said that he's the only active, registered guide who would be sitting on the board.

REPRESENTATIVE HOPKINS followed up to ask if Mr. Fletcher believes it would be in the best interest of all Alaskans to have members who prioritize having a balanced board on the Board of Game.

MR. FLETCHER replied that there's no mandate for the board to have a specific composition, but that he believes Alaskan guides

are an important part of the economy and are good stewards of the resources.

REPRESENTATIVE HOPKINS asked how important Mr. Fletcher believes it is to have a balanced board when it comes to the backgrounds of the members.

MR. FLETCHER responded that he believes it's important to have people from different backgrounds represented on the board, and that he would take input from the local advisory committees as the basis of his decision making. He also said that he would have an open mind and use his best judgement, and that he agrees with the concept that the board should represent all of Alaska.

[1:23:26 PM](#)

REPRESENTATIVE GILLHAM referred to Representative Rauscher's questions about the constitutional clauses in the context of a community hunt that allows 25 animals to be taken, and said that it gives a certain group of people priority over the animals of that area. He asked Mr. Fletcher what his thoughts are on that.

MR. FLETCHER responded that he doesn't have enough information about a community hunt to make an informed decision, but that there is a precedent for subsistence or "traditional" use.

REPRESENTATIVE GILLHAM clarified that the community hunt is not subsistence, rather it is a case of one member of a community being able to take 25 animals, and that this happens a week before the general hunt. He said that to him this equates to priority access for a certain group of people.

MR. FLETCHER replied that with this information, it seems that Representative Gillham's thoughts are valid.

[1:25:58 PM](#)

LYNN KEOGH JR., Appointee, Board of Game, said that he and his wife have operated a fishing charter business on the Kenai Peninsula for over 30 years; he is a commercial fisherman, full-time trapper, and registered hunting guide. He said that he guides one hunt per year as supplemental income and to pay for his hunting license. He said that he served two terms on the Anchorage Fish and Game Advisory Committee and believes in resident opportunity and sustained yield. He noted that he has no wildlife violations but did have a motor violation in 2007. Regarding the general versus permit hunt, he said that general

hunt means that there's enough game surplus to allow everyone to access the resource, whereas permit hunting means that the resource is more limited. He said that he believes the permit hunt is more beneficial to Alaskans. He referred to Representative Gillham's questions regarding the community harvest hunt and said that he does not believe that it fulfilled its original purpose and that, through conversations with area advisory committees, he has reason to believe that they are disapproving of the administration of the community harvest hunt.

1:28:24 PM

REPRESENTATIVE HANNAN noted the opposition to having a board composed primarily of registered guides, and she asked Mr. Keogh whether he keeps up his guide license for a reason other than guiding as a profession.

MR. KEOGH said that he worked hard to get that qualification, that it's benefitted him in allowing him to travel to see other hunting areas. He said that his interest lies with protecting resident opportunity, and that he's surprised by the opposition to him based solely on his status as a licensed guide.

REPRESENTATIVE HANNAN asked about the allegations that Mr. Keogh has had "numerous fish and wildlife violations" and asked him to affirm that he has no criminal fish or wildlife violations.

MR. KEOGH replied, "I have no fish and wildlife violations, nor have I ever."

1:31:00 PM

REPRESENTATIVE SCHRAGE asked whether Mr. Keogh had ever previously come before the legislature as an appointee.

MR. KEOGH replied that he had come before the legislature in 2011, and said that due to politics "it didn't go well."

REPRESENTATIVE SCHRAGE noted that Mr. Keogh said that he was surprised at the opposition to his appointment, even though he had previously been denied.

MR. KEOGH clarified that he was surprised there was opposition from a resident hunting group based simply on the fact that he is a registered guide.

1:32:12 PM

REPRESENTATIVE HOPKINS noted Mr. Keogh's assertion that he has a strong record of supporting resident hunters and asked for examples or evidence of that support.

MR. KEOGH said that in 2011 he served one cycle on the Board of Game, during which there was a proposal to give exclusive access to a moose population to one individual guide. He said that the motion passed, however he opposed it because he didn't believe it's the board's job to guarantee to one commercial guide exclusive access to a public resource. He then said that more recently, Resident Hunters of Alaska had submitted a petition to the board to create a policy of not changing the original intent of a proposal; the board had guaranteed non-residents 25 percent of the hunting permits.

REPRESENTATIVE HOPKINS noted that there are 1,230 licensed guides in Alaska, 25 percent of which are non-residents, and 100,000 resident hunters in Alaska. He asked Mr. Keogh if he believes that having four of the seven board members coming from a guiding background represents the interests of Alaskans, hunters, and the constitution.

MR. KEOGH replied that he does believe it because he's a subsistence hunter.

REPRESENTATIVE HOPKINS asked how important Mr. Keogh believes it is to have balance on the board.

MR. KEOGH answered that "based on the statute 16.05.221 I meet most if not all of the criteria," but he said he doesn't have any control of the overall makeup of the board.

REPRESENTATIVE HOPKINS said that he would ask again how important Mr. Keogh sees balance in representation and interest on the board, considering the controversial and complex nature of the issues.

MR. KEOGH asked Representative Hopkins how he defines "balance."

REPRESENTATIVE HOPKINS replied that there are resident hunters, guided interests, non-consumptive user interests, and subsistence interests, and he asked Mr. Keogh if he believes it is important to have all those interests equally represented on the board.

MR. KEOGH said that he believes it's important and that he believes he meets each of those criteria.

[1:37:31 PM](#)

REPRESENTATIVE FIELDS said that he has heard from constituents who have concerns about Mr. Keogh's appointment; one reported that in July 2004 there was a listing in Court View that he had a commercial fish permitting stipulation related to conducting commercial activity without a proper permit. He asked Mr. Keogh to explain what that is.

MR. KEOGH responded that he has no idea what that is, and said that the only violation he's had on the Kenai River was a motor violation in 2007.

REPRESENTATIVE FIELDS follow-up with another case from Court View, listing Mr. Keogh "in violation of a commercial guide."

MR. KEOGH responded, "No."

REPRESENTATIVE FIELDS cited Alaska Statute (AS) 16.05.221, which read: "The governor shall appoint each member on the basis of interest in public affairs, good judgment, knowledge, and ability in the field of action of the board, and with a view to providing diversity of interest and points of view in the membership." He referred to a Facebook post Mr. Keogh shared in 2017 about Alaska's state of corruption, that said "attorneys, judges, and others in Alaska's judicial system are manufacturing fraudulent judgments." Representative Fields asked Mr. Keogh if he believes Alaska's judicial system is corrupt.

MR. KEOGH said that he doesn't know why he shared the Facebook post and is surprised that he did, that he doesn't believe that Alaska's judicial system is corrupt, and that he shared that post to see what people's thoughts were.

[1:40:45 PM](#)

REPRESENTATIVE CRONK said that his main concern is managing game for maximum yield and sustenance. He asked if Mr. Keogh believes that, if game is managed properly, all of the user groups are covered.

MR. KEOGH replied that he agrees 100 percent and said that "if you pay attention to the resource first, everything else will follow along."

1:41:29 PM

JERRY BURNETT, Appointee, Board of Game, spoke as an appointee to the Board of Game and said that Governor Dunleavy appointed him to the Board of Game in 2019, and that he has now been reappointed for a second term, and is also currently serving as the Board of Game member on the Big Game Commercial Services Board. He said that he has lived in Juneau since 1981 and is active in the Alaska Outdoor Council and a sportsman organization and has been a board member and president of both organizations. He said that he retired from the State of Alaska in 2017, where he was the Deputy Commissioner for the Department of Revenue, and that he now has the time to serve on the Board of Game. Regarding the constitutional basis, he indicated that he believes that sustained yield requires putting the resource first, and that the intensive management statute requires the board to focus on maximum production of certain species, while maintaining sustained yield of the predator species. As far as common use, he said, there are several different uses of fish and game resources besides consumption, and each use is beneficial. Realistically, he said, there are areas in the state with small populations of game but large populations of people, so a permit system is necessary to limit who can hunt beyond subsistence; in areas where a larger harvest is possible, it becomes necessary to spread the hunters out over a longer time period. He stated that he is not very familiar with the community hunt that Representative Gillham referenced, but the way he described it, it seems that the community hunt would verge on unconstitutionality due to the preference based on a person's location; he indicated that he would need to research that issue. Regarding the food security question, he said that the past year has affected many decisions for people who don't have easy access to food, and has had the effect of keeping non-residents from hunting in Alaska and keeping hunters in urban areas from going to rural areas to harvest game.

1:47:55 PM

REPRESENTATIVE FIELDS noted that the issue of nonmotorized versus motorized access hadn't been discussed.

1:48:22 PM

CHAIR PATKOTAK opened public testimony on the appointees to the Board of Game.

1:49:00 PM

MARK RICHARDS, Executive Director, Resident Hunters of Alaska, described Resident Hunters of Alaska as a hunting conservation organization with 3,000 members that advocates for sustainable wildlife management policies geared toward prioritizing resident hunting. He said, "We strongly oppose the addition of two more registered guides, Jack Fletcher and Lynn Keogh, to the Board of Game." He said that this opposition is not because of their qualifications or reputation, but because they are both registered big game guides. He said that if two new guides are appointed, the board will be controlled by guides, which, as he said in his letter to the committee [included in the committee packet], represent less than 1 percent of Alaska resident hunters. He noted that the organization has historically supported select guides, in fact, it supports Mr. Hoffman and supported Al Barrette in the last cycle; however, the appointment of two more guides would create a clear imbalance favoring the commercial hunting industry over the interest of Alaska residents who are not guides. He said that he is surprised at the testimony from Mr. Keogh and Mr. Fletcher and said that each had disqualified themselves from serving due to the statute requiring a diversity of interest on the Board of Game, which would not be fulfilled by having registered guides as majority members.

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SAM ROHRER, President, Alaska Professional Hunters Association, said that the Alaska Professional Hunters Association (APHA) supports all four appointees to the Board of Game, and believes they will bring unique viewpoints and experiences, as they are accessible, willing to listen to all sides, and committed to making the best decisions possible. Mr. Rohrer noted that if these candidates were appointed there would be only two registered guides on the board, Mr. Keogh and Mr. Fletcher, not four. He said that of the other two members, one hasn't held a guide license since 2017, and the other holds only an assistant license, not a registered guide license. He said that he believes the appointees would be able to consider different viewpoints in their decision-making process.

1:54:05 PM

NICOLE SCHMITT said that she supports Mr. Hoffman's confirmation, as she has observed his sincerity and thoughtful decision-making during meetings in the past. She then noted her

concerns about Mr. Keogh's confirmation and said that she was surprised at his assertion that he does not remember his repeated citations while operating on the Kenai River. She said that serving on this board is a huge responsibility and that it's important for Board of Game members to uphold the rules they're tasked with enforcing. She noted that there are many qualified people engaged in the Board of Game process, and that Mr. Keogh's appointment is controversial.

[1:56:31 PM](#)

REPRESENTATIVE FIELDS referred to the previously mentioned July 27, 2004, Court View listing regarding conducting commercial activity without a proper permit and asked Ms. Schmitt if she's familiar with the details. He also mentioned the June 17, 1995, violation.

CHAIR PATKOTAK advised that committee members should keep in mind that Ms. Schmitt is not testifying in a legal capacity.

MS. SCHMITT said that she pulled up some of the documents available on Court View and noted that she had sent them to a couple of the representatives; she also said that she pulled up the record of the 2012 confirmation hearing, when these questions were originally asked and during which Mr. Keogh responded to inquiries about violations. She noted that all of this information is publicly available.

[1:58:57 PM](#)

REPRESENTATIVE CRONK said he doesn't feel that it's proper that the committee is asking people, during their public testimony, about evidence against an appointee.

CHAIR PATKOTAK expressed his agreement.

[1:59:38 PM](#)

KATHRYN LESSARD testified in favor of Mr. Keogh and read a letter she had sent, dated February 18, 2021, as follows:

Please support Lynn Keogh for the Board of Game. Lynn does have a lifetime experience of hunting, fishing and trapping in Alaska. Lynn has worked tirelessly to resolve trapping conflicts. He's dedicated, ... fair minded, and he's very committed to serving.

[2:01:32 PM](#)

CALEB MARTIN, Executive Director, Alaska Outdoor Council, testified in favor of all appointees to the Alaska Board of Game. He said that the Alaska Outdoor Council believes that all of them have the experience to serve.

[2:02:11 PM](#)

CHAIR PATKOTAK, after ascertaining that no one else wished to testify, closed public testimony.

[2:02:33 PM](#)

REPRESENTATIVE HANNAN asked to have Mr. Keogh back on the line to address the comments made in public testimony.

[2:03:11 PM](#)

MR. KEOGH, in response to Representative Hannan, said that he had received citations but was not convicted of them. He said that he has looked on Court View and "can't find anything in regard to those dates."

[2:04:02 PM](#)

CHAIR PATKOTAK noted the difference between allegations and public records.

[2:04:16 PM](#)

REPRESENTATIVE HANNAN asked again for Mr. Keogh to clarify the citations, and asked if they were violations of any nature other than equipment and speed regulations.

[2:04:55 PM](#)

MR. KEOGH responded that the only violation he had was the motor violation, but the fact that he was operating under a commercial permit made it a larger violation.

[2:06:15 PM](#)

CHAIR PATKOTAK used the analogy of having a headlight out as a commercial driver's license holder versus a regular driver's license; it's a much more serious violation when one holds a commercial license.

[2:06:42 PM](#)

REPRESENTATIVE HOPKINS asked Mr. Keogh if the citation qualified as a misdemeanor under state law.

MR. KEOGH responded, "No."

[2:07:11 PM](#)

REPRESENTATIVE RAUSCHER said that he's concerned about the ability of the advisory committees and overall public to be involved in the board meeting process, considering the nature of the virtual board meetings.

[2:08:22 PM](#)

REPRESENTATIVE SCHRAGE asked, "Was the boat with the oversized motor operated on the river at any point?"

MR. KEOGH responded that it was being operated on the Kenai River, and the citation in question was the July 27 incident that has been under discussion.

REPRESENTATIVE SCHRAGE opined that Mr. Keogh had the opportunity to notice the difference in motors, and that it should have been clear that it was a violation.

[2:09:34 PM](#)

REPRESENTATIVE CRONK said that certain people had a certain size motor that had been "tuned down" to a different level. He said that he personally happens to have a guide license but is an advocate for subsistence hunting, and asked hypothetically whether simply having that license would prevent him from serving on the Board of Game.

[2:10:43 PM](#)

CHAIR PATKOTAK told Mr. Keogh that he received letters from constituents and congratulated him on the Trapper of the Year award.

[2:12:20 PM](#)

CHAIR PATKOTAK announced that the confirmations of Stanley Hoffman, Jacob Fletcher, Lynn Keogh, and Jerry Burnett,

appointees to the Board of Game, would be advanced to the joint session for consideration. He reminded the committee that signing the reports regarding appointments to boards and commissions in no way reflects individual members' approval or disapproval of the appointees, and the nominations are merely forwarded to the full legislature for confirmation or rejection.

[2:13:05 PM](#)

The committee took an at-ease from 2:13 p.m. to 2:15 p.m.

**HB 81-OIL/GAS LEASE:DNR MODIFY NET PROFIT SHARE**

[2:15:36 PM](#)

CHAIR PATKOTAK announced that the final order of business would be HOUSE BILL NO. 81, "An Act authorizing the commissioner of natural resources to modify a net profit share lease." [Before the committee was CSHB 81(RES).]

CHAIR PATKOTAK noted that Legislative Legal Services requested the committee substitute to conform the bill to legislative drafting style.

[2:16:14 PM](#)

REPRESENTATIVE HOPKINS moved to adopt the proposed committee substitute (CS) for HB 81, Version 32-GH1706\B, Nauman, 3/16/21, as the working document. There being no objections, Version B was before the committee.

[2:16:33 PM](#)

CHAIR PATKOTAK moved to adopt Amendment 1 to Version B, labeled 32-GH1706\B.2, Nauman, 3/16/21, which read as follows:

Page 2, lines 17 - 18:

Delete "**for which additional capital expenditures would make future production no longer**"

Insert "**from which, without additional capital expenditures, future production would no longer be**"

[2:16:51 PM](#)

REPRESENTATIVE HOPKINS objected for purposes of discussion.

[2:17:15 PM](#)

EMILY NAUMAN, Deputy Director, Legislative Legal Services, Legislative Affairs Agency, explained that in the process of creating the committee substitute she discovered an error in drafting the bill, which is corrected by Amendment 1. In response to Representative Fields, she clarified that in the original bill, the wording did not conform with the intent of the bill, so the amendment clarifies [in Version B] that "without additional capital expenditures, future production would no longer be" economically feasible.

REPRESENTATIVE FIELDS asked whether, with the new language, there is a concern that a company might ask for more favorable lease treatment in lieu of capital expenditures. He noted that in general it would be preferable to have more investment rather than changing the lease terms.

MS. NAUMAN replied that the purpose of this amendment was to clarify what she believed to be the original intent of the bill.

REPRESENTATIVE FIELDS said that perhaps the Department of Natural Resources (DNR) could address its process for ensuring additional investment rather than more favorable treatment from the state for an existing production area.

[2:22:36 PM](#)

JHONNY MEZA, Commercial Section Manager, Division of Oil and Gas, Department of Natural Resources, clarified that it is not the intent of DNR to provide assistance in the form of a modified net profit share lease in cases where capital expenditures would otherwise be required to ensure future economic feasibility.

[2:24:01 PM](#)

REPRESENTATIVE FIELDS asked whether there exist statutes or regulations that provide the DNR with direction to take that stance.

MR. MEZA responded, "The statute mandates that the DNR commissioner maximizes the value of the oil and gas resources to the people of Alaska, and ... any modification of royalty or net profit share that could be contemplated would follow that goal."

REPRESENTATIVE FIELDS asked whether it would be better to delete "**additional capital expenditures**" [from page 2, line 17, of

Version B], so that the bill doesn't unintentionally disincentivize capital investment.

[2:25:20 PM](#)

REPRESENTATIVE SCHRAGE offered his belief the Amendment 1 would do the opposite of what the proposed legislation intended by allowing the modification of a net profit share agreement.

[2:26:26 PM](#)

MR. MEZA replied as follows:

Our intent is to encourage that this proposed capital expenditures be incurred by the lessee such that future production can come online. When they perform their economic evaluation, they may find that such an endeavor is not profitable enough to motivate them to sanction that investment. If by modifying the royalty rates or the net profit share, sanctioning that investment is considered as a profitable endeavor by the lessee, which includes their capital expenditure, then that's ... the goal that we're trying to accomplish. So, in other sense, in a given project we're not trying to modify the amount of capital expenditures that a lessee may be contemplating by modifying the royalty or net profit share, with the proposed capital expenditures, we're trying to encourage such future production to become economic.

[2:27:35 PM](#)

REPRESENTATIVE SCHRAGE said:

So, what I just heard is that ... if there is analysis done that shows additional capital expenditure would make future production economically feasible, they would be denied the adjustment to the net profit sharing agreement. And so I do believe the text in the bill, as currently written in version B, is correct.

RPRESENTATIVE SCHRAGE then noted that it could be put into simpler language, but that he believes "it matches the intent of the bill.

[2:28:16 PM](#)

CHAIR PATKOTAK noted that this is DNR's bill, and the intention of the department was to give the DNR commissioner the authority to modify net profit share lease agreements.

[2:28:55 PM](#)

RYAN FITZPATRICK, Commercial Analyst, Division of Oil and Gas, Department of Natural Resources, said that Legislative Legal Services brought the matter of the language to the attention of the department, and that both agencies agree that the language in the amendment achieves the intent of the bill. He referred to [subparagraph] (D), on page 2 of Version B, and said that with the new language inserted it would read: **"to prolong the economic life of an oil or gas field or pool for which additional capital expenditures would make future production no longer economically feasible"**. He said that this language is to make it clear that in order to be eligible for a royalty or net profit share modification, the lessee would have to make additional capital expenditures. He reemphasized that the royalty or net profit share modification would hinge on the lessee making the capital expenditure.

[2:30:59 PM](#)

REPRESENTATIVE FIELDS directed his remarks to Ms. Nauman and said that the plain language of [HB 81, Version B] seems to give DNR the ability to adjust lease terms in the absence of capital expenditures. He asked whether there's a way to clarify in stronger terms that capital expenditures and the economic benefits that accompany them are preferable, and that adjusting the lease terms is a "last resort" decision.

[2:31:45 PM](#)

MS. NAUMAN responded that she agrees that the language wouldn't necessarily require a lessee to make capital expenditures; instead, it would require the department to make a finding that without additional capital expenditures, future production wouldn't be economically feasible.

[2:32:32 PM](#)

REPRESENTATIVE FIELDS said that he understands that the purpose of the proposed legislation is to prolong production and that he believes the committee should pursue language making it clear that changing the lease terms is a last-resort decision.

[2:32:58 PM](#)

The committee took an at-ease from 2:33 p.m. to 2:35 p.m.

[2:35:30 PM](#)

REPRESENTATIVE SCHRAGE said that there are two scenarios in which the net profit share lease would be adjusted. One is a case in which there is no production on the lease, so it would be preferable for the company to make the investment in capital; if an investment would not make economic sense for the company, then the lease agreement could be adjusted to incentivize production. The second scenario, he said, would be a case in which there is production occurring on a lease but it's toward the end of its useful life, and that life could be extended by adjusting the net profit share agreement to incentivize further capital investment to extend the life of the lease. In either case, he said, there would exist a capital investment. He said that he would like to explore clarifying the language to refine the amendment.

MR. MEZA said that Representative Schrage's remarks accurately described the conditions for royalty under the statute. He summed up the possible scenarios as A) for new production, and B) existing production which may be near abandonment and need capital expenditures. He then added two additional scenarios: C) to restore production that had already been shuttered, and a newly-proposed scenario D) for incremental production, which looks similar to scenario B but differs in that the operation doesn't necessarily require additional capital expenditures for future production.

[2:38:44 PM](#)

REPRESENTATIVE FIELDS said that he would prefer to get Ms. Nauman's input clarifying that this bill is for application to cases in which the adjustment of lease terms is necessary for production to continue, as opposed to allowing lessees to abdicate their responsibility to make capital investments in order to keep producing.

[2:39:20 PM](#)

REPRESENTATIVE SCHRAGE asked whether it is the intent of the DNR to be able to adjust a net profit share agreement without any

capital investment taking place, simply to extend the duration of production on that field.

MR. MEZA said that there is one existing scenario for royalty modification, scenario B as previously described, which contemplates prolonging the economic life of an oil or gas field or pool where continuation of production could, by necessity, require capital expenditure; in scenario D, however, it is not a requirement.

[2:41:01 PM](#)

REPRESENTATIVE MCKAY said that it costs money just to produce the field without any additional capital investment; he said that there is one scenario in which the lessee may shutter the well unless more profit is possible in the future. He said that's the condition in scenario B.

[2:42:08 PM](#)

REPRESENTATIVE HOPKINS noted that Mr. Meza had described the condition of being "not profitable enough" and said that Mr. Meza said that the net profit share lease rate could be lowered if the field or pool was "not profitable enough." He asked whether the intent of this bill is to make a pool or field more profitable, or simply to make it profitable at all.

MR. MEZA answered that the goal for the lease modifications is to increase the likelihood that a project will be economically advantageous and to motivate the investment decision by the lessee. He said DNR cannot guarantee profitability of a project, and that this bill is to increase the likelihood that an investment in capital expenditure will take place.

REPRESENTATIVE HOPKINS asked whether a change in the net profit share rate could be made with no guarantee that capital investments would be made in the future.

MR. MEZA answered that is correct with respect to all of the cases with petitions for modification. He noted an earlier presentation in which he described a 2014 decision made to modify the royalty agreement; the project did not come to fruition despite granting the royalty modification.

[2:44:26 PM](#)

CHAIR PATKOTAK acknowledged that there is opportunity for DNR and Legislative Legal Services to work with the offices to clarify Amendment 1. [Amendment 1 was tabled, with the motion to adopt left pending.]

[2:46:13 PM](#)

The committee took a brief at-ease.

[2:47:03 PM](#)

REPRESENTATIVE HANNAN moved to adopt Amendment 2 to Version B, labeled 32-GH1706\B.1, Nauman, 3/15/21, which read as follows:

Page 2, line 18, following "feasible";:

Insert "a royalty modification may not be made under this subparagraph";

Page 2, line 30:

Delete "or (1) (D)"

Page 4, line 5:

Delete "or net profit share"

Following "(1) (A)":

Insert "of this subsection or a net profit share reduction under (1) (A)"

[2:47:07 PM](#)

[REPRESENTATIVE RAUSCHER objected for discussion purposes.]

[2:47:13 PM](#)

REPRESENTATIVE HANNAN said that the Amendment 2 focuses on [subparagraph] (D) and that Version B, as presented, focuses only on net profit share agreements, of which there are 26; royalty agreements, of which there are thousands, can already be modified in accordance with the DNR commissioner. If this bill passes with subparagraph (D) as currently written, she said, both net profit share and royalty agreements could be modified based on capital expenditures. She believes, she said, that investment to keep up production is standard in the industry, and that capital investment is necessary as a field ages. She said that the goal of the bill is to get the 26 existing net profit share agreements, most of which have not been in production, into production; therefore, Amendment 2 says that a producer must incur capital investment in order to modify the

terms of a net profit share lease. She said that she wants to make subparagraph (D) exclusive to the net profit share agreements.

[2:51:12 PM](#)

CHAIR PATKOTAK noted that based on the presentation in the committee meetings the focus of the proposed legislation is on changing the commissioner's authority regarding the net profit share leases, not the royalty leases.

MR. MEZA confirmed that it is correct that there are 26 net profit sharing leases on the North Slope, spread out among many productive oil and gas units. Many of the leases themselves are still producing, which is the reason for including subparagraph (D) - allowing modifications for leases on sites in order to prolong the economic life in the absence of capital expenditures, which would make future production economically unfeasible. They are including this scenario, he said, inclusive of royalty-only leases of net profit share leases.

[2:53:05 PM](#)

REPRESENTATIVE HOPKINS noted the title of the bill, **"An Act authorizing the commissioner of natural resources to modify a net profit share lease."** He asked whether the intent of this bill is to allow a royalty-only lease to change into a net profit share lease, or to change only the net profit share rate on a net profit share lease.

[2:53:37 PM](#)

MR. MEZA said that the intent is for the DNR commissioner to have the authority to modify either the royalty rate or net profit share rate; the current statute, he said, already allows the commissioner to modify royalty rates for any type of lease, but this bill is proposing giving the commissioner the authority to modify the net profit share rate. He said that the newly-proposed scenario under subparagraph (D) is for a scenario that would apply to both net profit share modification and royalty modification, as would the three existing scenarios A, B, and C. [These scenarios were previously described in a PowerPoint presentation given by Mr. Meza during the House Resources Standing Committee meeting on March 5, 2021, and they paraphrase the provisions under subparagraphs (A), (B), and (C), and the proposed subparagraph (D).]

REPRESENTATIVE HOPKINS said that Mr. Meza's notes clarified the intent.

2:55:10 PM

CHAIR PATKOTAK said that as he understands it, in order to change the net profit sharing lease's royalty agreement, the lessee would have to meet the requirements in scenarios A, B, and C, and he asked if that is correct.

MR. MEZA replied that, yes, that is correct; the scenarios A, B, C, and the newly-proposed scenario D are the scenarios for eligibility. A lessee applying for modification of royalty or net profit share would be required to demonstrate that the project would meet the criteria A through C, as well as the newly-proposed scenario D, and provide the technical and financial data that would demonstrate future production in order to modify either the royalty and/or net profit share rate.

2:56:21 PM

REPRESENTATIVE HOPKINS asked whether it is the intent of DNR to allow a change to the rate on a royalty-only lease, adhering to subparagraph (D); he offered his understanding that doing so would be outside the scope of the proposed legislation based on its title.

MR. MEZA said that under subparagraph (D), it is possible to have a modification to a royalty-only lease and that the intent of DNR is to include leases that only have a royalty component. The reason for this, he stated, is that the fields or pools which are currently producing but may be nearing the end of their economic life may need a modification of net profit share or royalty rates in order to maximize production, as well as revenue to the state.

2:58:31 PM

CHAIR PATKOTAK said he understands that if there exists a royalty-only lease that is ending its life, then perhaps there should be a modification to the royalty agreement and inclusion of a net profit share lease, adding to the total number of net profit share leases overall, depending on the situation.

[The motion to adopt Amendment 2 was left pending.]

CHAIR PATKOTAK announced that HB 81 would be held over.

3:00:16 PM

**ADJOURNMENT**

There being no further business before the committee, the House Resources Standing Committee meeting was adjourned at 3:00 p.m.